

FILED

10 MAY 2024 03:46 pm

Civil Administration

In the Court of Common Pleas of Philadelphia County

RESPONSE TO MOTION FOR EXTRAORDINARY RELIEF

J. BOYD

(Check One Program)

Commerce	Mass Tort
Day Forward/MajorJury	Non-Jury
Arbitration	

CONTROL NUMBER

CAPTION	COURT TERM AND NUMBER
	NAME OF RESPONDING PARTY AND COUNSEL
NAME OF PLAINTIFF AND COUNSEL	NAME OF DEFENDANT AND COUNSEL
SET FORTH YOUR POSITION CONCERNING THE MOVING PARTY'S REQUESTED RELIEF (ATTACH PROPOSED ORDER)	
A COPY OF THE RESPONSE WAS SENT OR WILL BE SENT TO THE FOLLOWING PARTIES AND/OR COUNSEL ON THE DATES SET FORTH BELOW	

I certify the above to be true and correct.

Respectfully submitted,

Date: _____

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DEPARTMENT,	:	
CITY OF PHILADELPHIA	:	
MAYOR’S OFFICE,	:	
	:	COURT OF COMMON PLEAS
AND	:	PHILADELPHIA COURT
	:	TRIAL DIVISION – CIVIL
CITY OF PHILADELPHIA	:	
PLANNING COMMISSION,	:	
Appellants,	:	No. 23 12 00944
	:	
v.	:	CONSOLIDATED:
	:	No. 23 12 02522 and No. 24 01 02443
	:	
FAYE ANDERSON,	:	
Appellee.	:	

APPELLEE’S OPPOSITION TO APPELLANT’S MOTION FOR EXTRAORDINARY RELIEF SEEKING EXTENSION OF BRIEFING DEADLINE

MATTER BEFORE THE COURT

Before this Court is Appellant’s April 29, 2024 motion for extraordinary relief requesting an extension of time until July 1, 2024 to file its brief in the instant matter. As detailed herein, Appellee opposes the motion and respectfully proposes an alternative deadline of June 10, 2024 for Appellant to file its brief, with a corresponding deadline of July 10, 2024 for Appellee to file her brief.

STATEMENT OF THE QUESTION

The question before this Court is whether Appellant is entitled to its requested relief as set forth in its motion for extraordinary relief—an extension of two months to file its brief.

Suggested Answer: No

FACTS

This Right to Know Law (“RTKL”) case is a consolidation of three separate RTKL appeals. All three cases were consolidated on February 26, 2024 by order of Judge Sierra Thomas-Street. The consolidated cases involve similar RTKL requests submitted by Appellee Faye Anderson in July and August 2023 to various City departments and offices regarding the proposal of the Philadelphia 76ers to build an arena — “76 Place” — near historic Chinatown. As detailed in the motion for consolidation filed with this court on January 30, 2024, Appellants filed three appeals following the Office of Open Records’ (“OOR”) partial grant of Ms. Anderson’s requests. By Notice of Appeal on December 7, 2023 and docketed at No. 231200944, the City of Philadelphia Planning Commission appealed the OOR’s November 20, 2023 Final Determination. By Notice of Appeal filed on December 21, 2023 and docketed at No. 231202522, the Mayor’s Office appealed the OOR’s December 8, 2023 Final Determination. And by Notice of Appeal filed on January 22, 2023 and docketed at No. 240102443, the City Law Department appealed the OOR’s January 9, 2023 Final Determination.

On February 6, 2024 Judge Sierra Thomas-Street issued a scheduling order in the first-filed appeal (No. 00944) and set May 6, 2024 as the deadline for Appellant’s brief as well as the deadline for any motion for extraordinary relief. On April 29, 2024, Appellant filed a Motion for Extraordinary Relief seeking an extension of the May 6, 2024 briefing deadline.

Appellee files this brief in opposition to the briefing extension.

ARGUMENT

Courts within the Commonwealth recognize that delays such as the one requested by the City have the inevitable effect of “disrupt[ing] the efficient and just administration of justice and would send a blatant message that case management deadlines are meaningless.” *Anthony Biddle Contractors, Inc. v. Preet Allied Am. St., LP*, 28 A.3d 916, 923 (2011) (citation omitted). These disruptions are all the more acute with respect to news media requesters like Appellee, given that “[t]he peculiar value of news is in the spreading of it while it is fresh[.]” *Int’l News Serv. v. Associated Press*, 248 U.S. 215, 235 (1918); *see also Neb. Press Ass’n v. Stuart*, 427 U.S. 539, 561 (1976) (“[T]he element of time is not unimportant if press coverage is to fulfill its traditional function of bringing news to the public promptly.”).

Nonetheless, it is within this Court’s discretion to “consider[] the basis of a party’s motion for extraordinary relief, specifically the reasons cited in support of extending” briefing deadlines established by the Court. *Anthony Biddle Contractors*, 28 A.3d at 923; however, here, Appellant’s reasons cited in support of its motion to extend the time to file its brief are patently insufficient to entitle it to an extension of two months. Indeed, Appellant’s cited reasons, namely, facing a staffing shortage operating under a claimed high volume of RTKL requests, OOR and Court of Common Pleas appeals, are inapposite in light of Appellant being on notice since February of the briefing deadline in this matter. Indeed, Appellant has cited the same boilerplate bases proffered before this Court in at least one other RTKL case before this Court. *See, e.g., Mot. for Emergency Relief, Ehrlich v. Free Library of Phila.*, No. 23-11-02475 (Ct. of Common Pleas, Phila. Cnty., Apr. 1, 2024), available at <https://perma.cc/YU6G-6FJC> (repeating the same sentiment, inter alia, that Appellant is “operating under a sudden and unprecedented increase in the volume of Right to Know requests and OOR appeals over the past month” and “[g]iven the limited resources of the Unit,” seeks an extension of deadlines). Where a party

merely “asserts boilerplate averments of essentially being too busy to comply timely with th[e] Court’s filing deadlines,” its motion for an extension should be denied. *Com. v. Ibrahim*, 127 A.3d 819, 825 (2015).

Finally, the interests of justice counsel in favor of denying Appellant’s motion for an extension of almost two months to file its brief. Appellee’s RTKL request concerns an important matter of public concern, namely, a planned arena near Chinatown that would be called “76 Place.” Disclosure of public records regarding the expansion into a historic neighborhood of Philadelphia is in the public’s interest, and developments around the arena, its funding, and tax impact are regularly covered by local news outlets.¹

Thus, Appellee proposes for the Court an alternative to Appellant’s requested relief—an alternative that balances a recognition of the City Law Department’s workload alongside the pressing need for a timely resolution of this significant RTKL case: While Appellee opposes Appellant’s motion to shift its deadline to file its brief to July 1, 2024, Appellee is amenable to an extension in this case that would extend Appellant’s deadline to June 10, 2024 to file its brief, with a corresponding deadline of July 10, 2024 for Appellee to file her brief. Accordingly, accompanying this opposition is a proposed order setting forth a proposed deadline of June 10, 2024, for the filing of Appellant’s brief.

CONCLUSION AND REQUEST FOR RELIEF

For the foregoing reasons, the Court should deny Appellant’s motion for extraordinary relief and grant Appellee’s proposed order.

¹ For example, there has been recent coverage of stakeholders’ response and involvement with the arena, such as the NAACP’s backing of the 76ers arena. *See, e.g., Aaron Moselle, A ‘Significant Opportunity’: Philly NAACP Backs Sixers’ Arena Proposal for Center City*, WHYY (May 7, 2024), available at <https://perma.cc/5Z84-Z4S8>; Jeff Gammage, *Philly Branch of the NAACP Endorses Sixers’ Plan for a Downtown Area*, Phila. Inquirer (May 7, 2024), available at <https://perma.cc/WW37-URYZ>.

Respectfully submitted by:
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Counsel for Appellee

Dated: May 10, 2024

CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2024, a true and correct copy of the foregoing Opposition to Motion for Extraordinary Relief in the above-captioned matter was filed by sending this paper to the Court's electronic filing system (EFS) website pursuant to Pa.R.C.P. 205.4(g) and Phila. Civil Rule *205.4(f), and by virtue of automatic electronic service by the Court to all parties, who have entered their appearance on the Court's electronic docket, and by email to:

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CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Date: May 10, 2024

Submitted by: Paula Knudsen Burke

Signature: *Paula Knudsen Burke*

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